



Rep. Michael J. Zalewski

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1 AMENDMENT TO SENATE BILL 1448

2 AMENDMENT NO. _____. Amend Senate Bill 1448 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Economic Development for a Growing Economy
5 Tax Credit Act is amended by changing Section 5-15 as follows:

6 (35 ILCS 10/5-15)

7 Sec. 5-15. Tax Credit Awards. Subject to the conditions set
8 forth in this Act, a Taxpayer is entitled to a Credit against
9 or, as described in subsection (g) of this Section, a payment
10 towards taxes imposed pursuant to subsections (a) and (b) of
11 Section 201 of the Illinois Income Tax Act that may be imposed
12 on the Taxpayer for a taxable year beginning on or after
13 January 1, 1999, if the Taxpayer is awarded a Credit by the
14 Department under this Act for that taxable year.

15 (a) The Department shall make Credit awards under this Act
16 to foster job creation and retention in Illinois.

1 (b) A person that proposes a project to create new jobs in
2 Illinois must enter into an Agreement with the Department for
3 the Credit under this Act.

4 (c) The Credit shall be claimed for the taxable years
5 specified in the Agreement.

6 (d) The Credit shall not exceed the Incremental Income Tax
7 attributable to the project that is the subject of the
8 Agreement.

9 (e) Nothing herein shall prohibit a Tax Credit Award to an
10 Applicant that uses a PEO if all other award criteria are
11 satisfied.

12 (f) In lieu of the Credit allowed under this Act against
13 the taxes imposed pursuant to subsections (a) and (b) of
14 Section 201 of the Illinois Income Tax Act for any taxable year
15 ending on or after December 31, 2009, the Taxpayer may elect to
16 claim the Credit against its obligation to pay over withholding
17 under Section 704A of the Illinois Income Tax Act.

18 (1) The election under this subsection (f) may be made
19 only by a Taxpayer that (i) is primarily engaged in one of
20 the following business activities: water purification and
21 treatment, motor vehicle metal stamping, automobile
22 manufacturing, automobile and light duty motor vehicle
23 manufacturing, motor vehicle manufacturing, light truck
24 and utility vehicle manufacturing, heavy duty truck
25 manufacturing, motor vehicle body manufacturing, cable
26 television infrastructure design or manufacturing, or

1 wireless telecommunication or computing terminal device
2 design or manufacturing for use on public networks and (ii)
3 meets the following criteria:

4 (A) the Taxpayer (i) had an Illinois net loss or an
5 Illinois net loss deduction under Section 207 of the
6 Illinois Income Tax Act for the taxable year in which
7 the Credit is awarded, (ii) employed a minimum of 1,000
8 full-time employees in this State during the taxable
9 year in which the Credit is awarded, (iii) has an
10 Agreement under this Act on December 14, 2009 (the
11 effective date of Public Act 96-834), and (iv) is in
12 compliance with all provisions of that Agreement;

13 (B) the Taxpayer (i) had an Illinois net loss or an
14 Illinois net loss deduction under Section 207 of the
15 Illinois Income Tax Act for the taxable year in which
16 the Credit is awarded, (ii) employed a minimum of 1,000
17 full-time employees in this State during the taxable
18 year in which the Credit is awarded, and (iii) has
19 applied for an Agreement within 365 days after December
20 14, 2009 (the effective date of Public Act 96-834);

21 (C) the Taxpayer (i) had an Illinois net operating
22 loss carryforward under Section 207 of the Illinois
23 Income Tax Act in a taxable year ending during calendar
24 year 2008, (ii) has applied for an Agreement within 150
25 days after the effective date of this amendatory Act of
26 the 96th General Assembly, (iii) creates at least 400

1 new jobs in Illinois, (iv) retains at least 2,000 jobs
2 in Illinois that would have been at risk of relocation
3 out of Illinois over a 10-year period, and (v) makes a
4 capital investment of at least \$75,000,000;

5 (D) the Taxpayer (i) had an Illinois net operating
6 loss carryforward under Section 207 of the Illinois
7 Income Tax Act in a taxable year ending during calendar
8 year 2009, (ii) has applied for an Agreement within 150
9 days after the effective date of this amendatory Act of
10 the 96th General Assembly, (iii) creates at least 150
11 new jobs, (iv) retains at least 1,000 jobs in Illinois
12 that would have been at risk of relocation out of
13 Illinois over a 10-year period, and (v) makes a capital
14 investment of at least \$57,000,000; or

15 (E) the Taxpayer (i) employed at least 2,500
16 full-time employees in the State during the year in
17 which the Credit is awarded, (ii) commits to make at
18 least \$500,000,000 in combined capital improvements
19 and project costs under the Agreement, (iii) applies
20 for an Agreement between January 1, 2011 and June 30,
21 2011, (iv) executes an Agreement for the Credit during
22 calendar year 2011, and (v) was incorporated no more
23 than 5 years before the filing of an application for an
24 Agreement.

25 (1.5) The election under this subsection (f) may also
26 be made by a Taxpayer for any Credit awarded pursuant to an

1 agreement that was executed between January 1, 2011 and
2 June 30, 2011, if the Taxpayer (i) is primarily engaged in
3 the manufacture of inner tubes or tires, or both, from
4 natural and synthetic rubber, (ii) employs a minimum of
5 2,400 full-time employees in Illinois at the time of
6 application, (iii) creates at least 350 full-time jobs and
7 retains at least 250 full-time jobs in Illinois that would
8 have been at risk of being created or retained outside of
9 Illinois, and (iv) makes a capital investment of at least
10 \$200,000,000 at the project location.

11 (1.6) The election under this subsection (f) may also
12 be made by a Taxpayer for any Credit awarded pursuant to an
13 agreement that was executed within 150 days after the
14 effective date of this amendatory Act of the 97th General
15 Assembly, if the Taxpayer (i) is primarily engaged in the
16 operation of a discount department store, (ii) maintains
17 its corporate headquarters in Illinois, (iii) employs a
18 minimum of 4,250 full-time employees at its corporate
19 headquarters in Illinois at the time of application, (iv)
20 retains at least 4,250 full-time jobs in Illinois that
21 would have been at risk of being relocated outside of
22 Illinois, (v) had a minimum of \$40,000,000,000 in total
23 revenue in 2010, and (vi) makes a capital investment of at
24 least \$300,000,000 at the project location.

25 (1.7) Notwithstanding any other provision of law, the
26 election under this subsection (f) may also be made by a

1 Taxpayer for any Credit awarded pursuant to an agreement
2 that was executed or applied for on or after July 1, 2011
3 and on or before March 31, 2012, if the Taxpayer is
4 primarily engaged in the manufacture of original and
5 aftermarket filtration parts and products for automobiles,
6 motor vehicles, light duty motor vehicles, light trucks and
7 utility vehicles, and heavy duty trucks, (ii) employs a
8 minimum of 1,000 full-time employees in Illinois at the
9 time of application, (iii) creates at least 250 full-time
10 jobs in Illinois, (iv) relocates its corporate
11 headquarters to Illinois from another state, and (v) makes
12 a capital investment of at least \$4,000,000 at the project
13 location.

14 (1.8) Notwithstanding any other provision of law, an
15 election under this subsection (f) may also be made by a
16 Taxpayer that:

17 (A) is primarily engaged in business as a
18 distributor of industrial and specialty chemicals;

19 (B) relocates its corporate headquarters to
20 Illinois from another State; and

21 (C) entered into an Agreement for a Credit prior to
22 the effective date of this amendatory Act of the 98th
23 General Assembly, which required the Taxpayer to (i)
24 make a capital investment of at least \$9,300,000, (ii)
25 retain at least 100 full-time jobs at project locations
26 in Illinois, and (iii) create at least 69 full-time

1 jobs at project locations in Illinois.

2 (2) An election under this subsection shall allow the
3 credit to be taken against payments otherwise due under
4 Section 704A of the Illinois Income Tax Act during the
5 first calendar year beginning after the end of the taxable
6 year in which the credit is awarded under this Act, except
7 that an election under paragraph (1.8) shall allow the
8 credit to be taken against payments otherwise due under
9 Section 704A of the Illinois Income Tax Act during the
10 12-month period beginning with the first month after the
11 Taxpayer relocates its corporate headquarters to Illinois.

12 (3) The election shall be made in the form and manner
13 required by the Illinois Department of Revenue and, once
14 made, shall be irrevocable.

15 (4) If a Taxpayer who meets the requirements of
16 subparagraph (A) of paragraph (1) of this subsection (f)
17 elects to claim the Credit against its withholdings as
18 provided in this subsection (f), then, on and after the
19 date of the election, the terms of the Agreement between
20 the Taxpayer and the Department may not be further amended
21 during the term of the Agreement.

22 (g) A pass-through entity that has been awarded a credit
23 under this Act, its shareholders, or its partners may treat
24 some or all of the credit awarded pursuant to this Act as a tax
25 payment for purposes of the Illinois Income Tax Act. The term
26 "tax payment" means a payment as described in Article 6 or

1 Article 8 of the Illinois Income Tax Act or a composite payment
2 made by a pass-through entity on behalf of any of its
3 shareholders or partners to satisfy such shareholders' or
4 partners' taxes imposed pursuant to subsections (a) and (b) of
5 Section 201 of the Illinois Income Tax Act. In no event shall
6 the amount of the award credited pursuant to this Act exceed
7 the Illinois income tax liability of the pass-through entity or
8 its shareholders or partners for the taxable year.

9 (Source: P.A. 96-834, eff. 12-14-09; 96-836, eff. 12-16-09;
10 96-905, eff. 6-4-10; 96-1000, eff. 7-2-10; 96-1534, eff.
11 3-4-11; 97-2, eff. 5-6-11; 97-636, eff. 6-1-12.)

12 Section 10. The Service Use Tax Act is amended by changing
13 Section 3-70 as follows:

14 (35 ILCS 110/3-70)

15 Sec. 3-70. Manufacturer's Purchase Credit. For purchases
16 of machinery and equipment made on and after January 1, 1995
17 and through June 30, 2003, and on and after September 1, 2004
18 through August 30, 2014, a purchaser of manufacturing machinery
19 and equipment that qualifies for the exemption provided by
20 Section 2 of this Act earns a credit in an amount equal to a
21 fixed percentage of the tax which would have been incurred
22 under this Act on those purchases. For purchases of graphic
23 arts machinery and equipment made on or after July 1, 1996
24 through June 30, 2003, and on and after September 1, 2004

1 through August 30, 2014, a purchase of graphic arts machinery
2 and equipment that qualifies for the exemption provided by
3 paragraph (5) of Section 3-5 of this Act earns a credit in an
4 amount equal to a fixed percentage of the tax that would have
5 been incurred under this Act on those purchases. The credit
6 earned for the purchase of manufacturing machinery and
7 equipment and graphic arts machinery and equipment shall be
8 referred to as the Manufacturer's Purchase Credit. A graphic
9 arts producer is a person engaged in graphic arts production as
10 defined in Section 3-30 of the Service Occupation Tax Act.
11 Beginning July 1, 1996, all references in this Section to
12 manufacturers or manufacturing shall also refer to graphic arts
13 producers or graphic arts production.

14 The amount of credit shall be a percentage of the tax that
15 would have been incurred on the purchase of the manufacturing
16 machinery and equipment or graphic arts machinery and equipment
17 if the exemptions provided by Section 2 or paragraph (5) of
18 Section 3-5 of this Act had not been applicable.

19 All purchases prior to October 1, 2003 and on and after
20 September 1, 2004 through August 30, 2014 of manufacturing
21 machinery and equipment and graphic arts machinery and
22 equipment that qualify for the exemptions provided by paragraph
23 (5) of Section 2 or paragraph (5) of Section 3-5 of this Act
24 qualify for the credit without regard to whether the serviceman
25 elected, or could have elected, under paragraph (7) of Section
26 2 of this Act to exclude the transaction from this Act. If the

1 serviceman's billing to the service customer separately states
2 a selling price for the exempt manufacturing machinery or
3 equipment or the exempt graphic arts machinery and equipment,
4 the credit shall be calculated, as otherwise provided herein,
5 based on that selling price. If the serviceman's billing does
6 not separately state a selling price for the exempt
7 manufacturing machinery and equipment or the exempt graphic
8 arts machinery and equipment, the credit shall be calculated,
9 as otherwise provided herein, based on 50% of the entire
10 billing. If the serviceman contracts to design, develop, and
11 produce special order manufacturing machinery and equipment or
12 special order graphic arts machinery and equipment, and the
13 billing does not separately state a selling price for such
14 special order machinery and equipment, the credit shall be
15 calculated, as otherwise provided herein, based on 50% of the
16 entire billing. The provisions of this paragraph are effective
17 for purchases made on or after January 1, 1995.

18 The percentage shall be as follows:

19 (1) 15% for purchases made on or before June 30, 1995.

20 (2) 25% for purchases made after June 30, 1995, and on
21 or before June 30, 1996.

22 (3) 40% for purchases made after June 30, 1996, and on
23 or before June 30, 1997.

24 (4) 50% for purchases made on or after July 1, 1997.

25 (a) Manufacturer's Purchase Credit earned prior to July 1,
26 2003. This subsection (a) applies to Manufacturer's Purchase

1 Credit earned prior to July 1, 2003. A purchaser of production
2 related tangible personal property desiring to use the
3 Manufacturer's Purchase Credit shall certify to the seller
4 prior to October 1, 2003 that the purchaser is satisfying all
5 or part of the liability under the Use Tax Act or the Service
6 Use Tax Act that is due on the purchase of the production
7 related tangible personal property by use of a Manufacturer's
8 Purchase Credit. The Manufacturer's Purchase Credit
9 certification must be dated and shall include the name and
10 address of the purchaser, the purchaser's registration number,
11 if registered, the credit being applied, and a statement that
12 the State Use Tax or Service Use Tax liability is being
13 satisfied with the manufacturer's or graphic arts producer's
14 accumulated purchase credit. Certification may be incorporated
15 into the manufacturer's or graphic arts producer's purchase
16 order. Manufacturer's Purchase Credit certification provided
17 by the manufacturer or graphic arts producer prior to October
18 1, 2003 may be used to satisfy the retailer's or serviceman's
19 liability under the Retailers' Occupation Tax Act or Service
20 Occupation Tax Act for the credit claimed, not to exceed 6.25%
21 of the receipts subject to tax from a qualifying purchase, but
22 only if the retailer or serviceman reports the Manufacturer's
23 Purchase Credit claimed as required by the Department. A
24 Manufacturer's Purchase Credit reported on any original or
25 amended return filed under this Act after October 20, 2003
26 shall be disallowed. The Manufacturer's Purchase Credit earned

1 by purchase of exempt manufacturing machinery and equipment or
2 graphic arts machinery and equipment is a non-transferable
3 credit. A manufacturer or graphic arts producer that enters
4 into a contract involving the installation of tangible personal
5 property into real estate within a manufacturing or graphic
6 arts production facility, prior to October 1, 2003, may
7 authorize a construction contractor to utilize credit
8 accumulated by the manufacturer or graphic arts producer to
9 purchase the tangible personal property. A manufacturer or
10 graphic arts producer intending to use accumulated credit to
11 purchase such tangible personal property shall execute a
12 written contract authorizing the contractor to utilize a
13 specified dollar amount of credit. The contractor shall
14 furnish, prior to October 1, 2003, the supplier with the
15 manufacturer's or graphic arts producer's name, registration
16 or resale number, and a statement that a specific amount of the
17 Use Tax or Service Use Tax liability, not to exceed 6.25% of
18 the selling price, is being satisfied with the credit. The
19 manufacturer or graphic arts producer shall remain liable to
20 timely report all information required by the annual Report of
21 Manufacturer's Purchase Credit Used for credit utilized by a
22 construction contractor.

23 No Manufacturer's Purchase Credit earned prior to July 1,
24 2003 may be used after October 1, 2003. The Manufacturer's
25 Purchase Credit may be used to satisfy liability under the Use
26 Tax Act or the Service Use Tax Act due on the purchase of

1 production related tangible personal property (including
2 purchases by a manufacturer, by a graphic arts producer, or a
3 lessor who rents or leases the use of the property to a
4 manufacturer or graphic arts producer) that does not otherwise
5 qualify for the manufacturing machinery and equipment
6 exemption or the graphic arts machinery and equipment
7 exemption. "Production related tangible personal property"
8 means (i) all tangible personal property used or consumed by
9 the purchaser in a manufacturing facility in which a
10 manufacturing process described in Section 2-45 of the
11 Retailers' Occupation Tax Act takes place, including tangible
12 personal property purchased for incorporation into real estate
13 within a manufacturing facility and including, but not limited
14 to, tangible personal property used or consumed in activities
15 such as pre-production material handling, receiving, quality
16 control, inventory control, storage, staging, and packaging
17 for shipping and transportation purposes; (ii) all tangible
18 personal property used or consumed by the purchaser in a
19 graphic arts facility in which graphic arts production as
20 described in Section 2-30 of the Retailers' Occupation Tax Act
21 takes place, including tangible personal property purchased
22 for incorporation into real estate within a graphic arts
23 facility and including, but not limited to, all tangible
24 personal property used or consumed in activities such as
25 graphic arts preliminary or pre-press production,
26 pre-production material handling, receiving, quality control,

1 inventory control, storage, staging, sorting, labeling,
2 mailing, tying, wrapping, and packaging; and (iii) all tangible
3 personal property used or consumed by the purchaser for
4 research and development. "Production related tangible
5 personal property" does not include (i) tangible personal
6 property used, within or without a manufacturing or graphic
7 arts facility, in sales, purchasing, accounting, fiscal
8 management, marketing, personnel recruitment or selection, or
9 landscaping or (ii) tangible personal property required to be
10 titled or registered with a department, agency, or unit of
11 federal, state, or local government. The Manufacturer's
12 Purchase Credit may be used, prior to October 1, 2003, to
13 satisfy the tax arising either from the purchase of machinery
14 and equipment on or after January 1, 1995 for which the
15 manufacturing machinery and equipment exemption provided by
16 Section 2 of this Act was erroneously claimed, or the purchase
17 of machinery and equipment on or after July 1, 1996 for which
18 the exemption provided by paragraph (5) of Section 3-5 of this
19 Act was erroneously claimed, but not in satisfaction of
20 penalty, if any, and interest for failure to pay the tax when
21 due. A purchaser of production related tangible personal
22 property who is required to pay Illinois Use Tax or Service Use
23 Tax on the purchase directly to the Department may, prior to
24 October 1, 2003, utilize the Manufacturer's Purchase Credit in
25 satisfaction of the tax arising from that purchase, but not in
26 satisfaction of penalty and interest. A purchaser who uses the

1 Manufacturer's Purchase Credit to purchase property which is
2 later determined not to be production related tangible personal
3 property may be liable for tax, penalty, and interest on the
4 purchase of that property as of the date of purchase but shall
5 be entitled to use the disallowed Manufacturer's Purchase
6 Credit, so long as it has not expired and is used prior to
7 October 1, 2003, on qualifying purchases of production related
8 tangible personal property not previously subject to credit
9 usage. The Manufacturer's Purchase Credit earned by a
10 manufacturer or graphic arts producer expires the last day of
11 the second calendar year following the calendar year in which
12 the credit arose. No Manufacturer's Purchase Credit may be used
13 after September 30, 2003 regardless of when that credit was
14 earned.

15 A purchaser earning Manufacturer's Purchase Credit shall
16 sign and file an annual Report of Manufacturer's Purchase
17 Credit Earned for each calendar year no later than the last day
18 of the sixth month following the calendar year in which a
19 Manufacturer's Purchase Credit is earned. A Report of
20 Manufacturer's Purchase Credit Earned shall be filed on forms
21 as prescribed or approved by the Department and shall state,
22 for each month of the calendar year: (i) the total purchase
23 price of all purchases of exempt manufacturing or graphic arts
24 machinery on which the credit was earned; (ii) the total State
25 Use Tax or Service Use Tax which would have been due on those
26 items; (iii) the percentage used to calculate the amount of

1 credit earned; (iv) the amount of credit earned; and (v) such
2 other information as the Department may reasonably require. A
3 purchaser earning Manufacturer's Purchase Credit shall
4 maintain records which identify, as to each purchase of
5 manufacturing or graphic arts machinery and equipment on which
6 the purchaser earned Manufacturer's Purchase Credit, the
7 vendor (including, if applicable, either the vendor's
8 registration number or Federal Employer Identification
9 Number), the purchase price, and the amount of Manufacturer's
10 Purchase Credit earned on each purchase.

11 A purchaser using Manufacturer's Purchase Credit shall
12 sign and file an annual Report of Manufacturer's Purchase
13 Credit Used for each calendar year no later than the last day
14 of the sixth month following the calendar year in which a
15 Manufacturer's Purchase Credit is used. A Report of
16 Manufacturer's Purchase Credit Used shall be filed on forms as
17 prescribed or approved by the Department and shall state, for
18 each month of the calendar year: (i) the total purchase price
19 of production related tangible personal property purchased
20 from Illinois suppliers; (ii) the total purchase price of
21 production related tangible personal property purchased from
22 out-of-state suppliers; (iii) the total amount of credit used
23 during such month; and (iv) such other information as the
24 Department may reasonably require. A purchaser using
25 Manufacturer's Purchase Credit shall maintain records that
26 identify, as to each purchase of production related tangible

1 personal property on which the purchaser used Manufacturer's
2 Purchase Credit, the vendor (including, if applicable, either
3 the vendor's registration number or Federal Employer
4 Identification Number), the purchase price, and the amount of
5 Manufacturer's Purchase Credit used on each purchase.

6 No annual report shall be filed before May 1, 1996 or after
7 June 30, 2004. A purchaser that fails to file an annual Report
8 of Manufacturer's Purchase Credit Earned or an annual Report of
9 Manufacturer's Purchase Credit Used by the last day of the
10 sixth month following the end of the calendar year shall
11 forfeit all Manufacturer's Purchase Credit for that calendar
12 year unless it establishes that its failure to file was due to
13 reasonable cause. Manufacturer's Purchase Credit reports may
14 be amended to report and claim credit on qualifying purchases
15 not previously reported at any time before the credit would
16 have expired, unless both the Department and the purchaser have
17 agreed to an extension of the statute of limitations for the
18 issuance of a notice of tax liability as provided in Section 4
19 of the Retailers' Occupation Tax Act. If the time for
20 assessment or refund has been extended, then amended reports
21 for a calendar year may be filed at any time prior to the date
22 to which the statute of limitations for the calendar year or
23 portion thereof has been extended. No Manufacturer's Purchase
24 Credit report filed with the Department for periods prior to
25 January 1, 1995 shall be approved. Manufacturer's Purchase
26 Credit claimed on an amended report may be used, prior to

1 October 1, 2003, to satisfy tax liability under the Use Tax Act
2 or the Service Use Tax Act (i) on qualifying purchases of
3 production related tangible personal property made after the
4 date the amended report is filed or (ii) assessed by the
5 Department on qualifying purchases of production related
6 tangible personal property made in the case of manufacturers on
7 or after January 1, 1995, or in the case of graphic arts
8 producers on or after July 1, 1996.

9 If the purchaser is not the manufacturer or a graphic arts
10 producer, but rents or leases the use of the property to a
11 manufacturer or a graphic arts producer, the purchaser may
12 earn, report, and use Manufacturer's Purchase Credit in the
13 same manner as a manufacturer or graphic arts producer.

14 A purchaser shall not be entitled to any Manufacturer's
15 Purchase Credit for a purchase that is required to be reported
16 and is not timely reported as provided in this Section. A
17 purchaser remains liable for (i) any tax that was satisfied by
18 use of a Manufacturer's Purchase Credit, as of the date of
19 purchase, if that use is not timely reported as required in
20 this Section and (ii) for any applicable penalties and interest
21 for failing to pay the tax when due. No Manufacturer's Purchase
22 Credit may be used after September 30, 2003 to satisfy any tax
23 liability imposed under this Act, including any audit
24 liability.

25 (b) Manufacturer's Purchase Credit earned on and after
26 September 1, 2004. This subsection (b) applies to

1 Manufacturer's Purchase Credit earned on or after September 1,
2 2004. Manufacturer's Purchase Credit earned on or after
3 September 1, 2004 may only be used to satisfy the Use Tax or
4 Service Use Tax liability incurred on production related
5 tangible personal property purchased on or after September 1,
6 2004. A purchaser of production related tangible personal
7 property desiring to use the Manufacturer's Purchase Credit
8 shall certify to the seller that the purchaser is satisfying
9 all or part of the liability under the Use Tax Act or the
10 Service Use Tax Act that is due on the purchase of the
11 production related tangible personal property by use of a
12 Manufacturer's Purchase Credit. The Manufacturer's Purchase
13 Credit certification must be dated and shall include the name
14 and address of the purchaser, the purchaser's registration
15 number, if registered, the credit being applied, and a
16 statement that the State Use Tax or Service Use Tax liability
17 is being satisfied with the manufacturer's or graphic arts
18 producer's accumulated purchase credit. Certification may be
19 incorporated into the manufacturer's or graphic arts
20 producer's purchase order. Manufacturer's Purchase Credit
21 certification provided by the manufacturer or graphic arts
22 producer may be used to satisfy the retailer's or serviceman's
23 liability under the Retailers' Occupation Tax Act or Service
24 Occupation Tax Act for the credit claimed, not to exceed 6.25%
25 of the receipts subject to tax from a qualifying purchase, but
26 only if the retailer or serviceman reports the Manufacturer's

1 Purchase Credit claimed as required by the Department. The
2 Manufacturer's Purchase Credit earned by purchase of exempt
3 manufacturing machinery and equipment or graphic arts
4 machinery and equipment is a non-transferable credit. A
5 manufacturer or graphic arts producer that enters into a
6 contract involving the installation of tangible personal
7 property into real estate within a manufacturing or graphic
8 arts production facility may, on or after September 1, 2004,
9 authorize a construction contractor to utilize credit
10 accumulated by the manufacturer or graphic arts producer to
11 purchase the tangible personal property. A manufacturer or
12 graphic arts producer intending to use accumulated credit to
13 purchase such tangible personal property shall execute a
14 written contract authorizing the contractor to utilize a
15 specified dollar amount of credit. The contractor shall furnish
16 the supplier with the manufacturer's or graphic arts producer's
17 name, registration or resale number, and a statement that a
18 specific amount of the Use Tax or Service Use Tax liability,
19 not to exceed 6.25% of the selling price, is being satisfied
20 with the credit. The manufacturer or graphic arts producer
21 shall remain liable to timely report all information required
22 by the annual Report of Manufacturer's Purchase Credit Used for
23 credit utilized by a construction contractor.

24 The Manufacturer's Purchase Credit may be used to satisfy
25 liability under the Use Tax Act or the Service Use Tax Act due
26 on the purchase, made on or after September 1, 2004, of

1 production related tangible personal property (including
2 purchases by a manufacturer, by a graphic arts producer, or a
3 lessor who rents or leases the use of the property to a
4 manufacturer or graphic arts producer) that does not otherwise
5 qualify for the manufacturing machinery and equipment
6 exemption or the graphic arts machinery and equipment
7 exemption. "Production related tangible personal property"
8 means (i) all tangible personal property used or consumed by
9 the purchaser in a manufacturing facility in which a
10 manufacturing process described in Section 2-45 of the
11 Retailers' Occupation Tax Act takes place, including tangible
12 personal property purchased for incorporation into real estate
13 within a manufacturing facility and including, but not limited
14 to, tangible personal property used or consumed in activities
15 such as pre-production material handling, receiving, quality
16 control, inventory control, storage, staging, and packaging
17 for shipping and transportation purposes; (ii) all tangible
18 personal property used or consumed by the purchaser in a
19 graphic arts facility in which graphic arts production as
20 described in Section 2-30 of the Retailers' Occupation Tax Act
21 takes place, including tangible personal property purchased
22 for incorporation into real estate within a graphic arts
23 facility and including, but not limited to, all tangible
24 personal property used or consumed in activities such as
25 graphic arts preliminary or pre-press production,
26 pre-production material handling, receiving, quality control,

1 inventory control, storage, staging, sorting, labeling,
2 mailing, tying, wrapping, and packaging; and (iii) all tangible
3 personal property used or consumed by the purchaser for
4 research and development. "Production related tangible
5 personal property" does not include (i) tangible personal
6 property used, within or without a manufacturing or graphic
7 arts facility, in sales, purchasing, accounting, fiscal
8 management, marketing, personnel recruitment or selection, or
9 landscaping or (ii) tangible personal property required to be
10 titled or registered with a department, agency, or unit of
11 federal, state, or local government. The Manufacturer's
12 Purchase Credit may be used to satisfy the tax arising either
13 from the purchase of machinery and equipment on or after
14 September 1, 2004 for which the manufacturing machinery and
15 equipment exemption provided by Section 2 of this Act was
16 erroneously claimed, or the purchase of machinery and equipment
17 on or after September 1, 2004 for which the exemption provided
18 by paragraph (5) of Section 3-5 of this Act was erroneously
19 claimed, but not in satisfaction of penalty, if any, and
20 interest for failure to pay the tax when due. A purchaser of
21 production related tangible personal property that is
22 purchased on or after September 1, 2004 who is required to pay
23 Illinois Use Tax or Service Use Tax on the purchase directly to
24 the Department may utilize the Manufacturer's Purchase Credit
25 in satisfaction of the tax arising from that purchase, but not
26 in satisfaction of penalty and interest. A purchaser who uses

1 the Manufacturer's Purchase Credit to purchase property on and
2 after September 1, 2004 which is later determined not to be
3 production related tangible personal property may be liable for
4 tax, penalty, and interest on the purchase of that property as
5 of the date of purchase but shall be entitled to use the
6 disallowed Manufacturer's Purchase Credit, so long as it has
7 not expired, on qualifying purchases of production related
8 tangible personal property not previously subject to credit
9 usage. The Manufacturer's Purchase Credit earned by a
10 manufacturer or graphic arts producer expires the last day of
11 the second calendar year following the calendar year in which
12 the credit arose.

13 A purchaser earning Manufacturer's Purchase Credit shall
14 sign and file an annual Report of Manufacturer's Purchase
15 Credit Earned for each calendar year no later than the last day
16 of the sixth month following the calendar year in which a
17 Manufacturer's Purchase Credit is earned. A Report of
18 Manufacturer's Purchase Credit Earned shall be filed on forms
19 as prescribed or approved by the Department and shall state,
20 for each month of the calendar year: (i) the total purchase
21 price of all purchases of exempt manufacturing or graphic arts
22 machinery on which the credit was earned; (ii) the total State
23 Use Tax or Service Use Tax which would have been due on those
24 items; (iii) the percentage used to calculate the amount of
25 credit earned; (iv) the amount of credit earned; and (v) such
26 other information as the Department may reasonably require. A

1 purchaser earning Manufacturer's Purchase Credit shall
2 maintain records which identify, as to each purchase of
3 manufacturing or graphic arts machinery and equipment on which
4 the purchaser earned Manufacturer's Purchase Credit, the
5 vendor (including, if applicable, either the vendor's
6 registration number or Federal Employer Identification
7 Number), the purchase price, and the amount of Manufacturer's
8 Purchase Credit earned on each purchase.

9 A purchaser using Manufacturer's Purchase Credit shall
10 sign and file an annual Report of Manufacturer's Purchase
11 Credit Used for each calendar year no later than the last day
12 of the sixth month following the calendar year in which a
13 Manufacturer's Purchase Credit is used. A Report of
14 Manufacturer's Purchase Credit Used shall be filed on forms as
15 prescribed or approved by the Department and shall state, for
16 each month of the calendar year: (i) the total purchase price
17 of production related tangible personal property purchased
18 from Illinois suppliers; (ii) the total purchase price of
19 production related tangible personal property purchased from
20 out-of-state suppliers; (iii) the total amount of credit used
21 during such month; and (iv) such other information as the
22 Department may reasonably require. A purchaser using
23 Manufacturer's Purchase Credit shall maintain records that
24 identify, as to each purchase of production related tangible
25 personal property on which the purchaser used Manufacturer's
26 Purchase Credit, the vendor (including, if applicable, either

1 the vendor's registration number or Federal Employer
2 Identification Number), the purchase price, and the amount of
3 Manufacturer's Purchase Credit used on each purchase.

4 A purchaser that fails to file an annual Report of
5 Manufacturer's Purchase Credit Earned or an annual Report of
6 Manufacturer's Purchase Credit Used by the last day of the
7 sixth month following the end of the calendar year shall
8 forfeit all Manufacturer's Purchase Credit for that calendar
9 year unless it establishes that its failure to file was due to
10 reasonable cause. Manufacturer's Purchase Credit reports may
11 be amended to report and claim credit on qualifying purchases
12 not previously reported at any time before the credit would
13 have expired, unless both the Department and the purchaser have
14 agreed to an extension of the statute of limitations for the
15 issuance of a notice of tax liability as provided in Section 4
16 of the Retailers' Occupation Tax Act. If the time for
17 assessment or refund has been extended, then amended reports
18 for a calendar year may be filed at any time prior to the date
19 to which the statute of limitations for the calendar year or
20 portion thereof has been extended. Manufacturer's Purchase
21 Credit claimed on an amended report may be used to satisfy tax
22 liability under the Use Tax Act or the Service Use Tax Act (i)
23 on qualifying purchases of production related tangible
24 personal property made after the date the amended report is
25 filed or (ii) assessed by the Department on qualifying
26 production related tangible personal property purchased on or

1 after September 1, 2004.

2 If the purchaser is not the manufacturer or a graphic arts
3 producer, but rents or leases the use of the property to a
4 manufacturer or a graphic arts producer, the purchaser may
5 earn, report, and use Manufacturer's Purchase Credit in the
6 same manner as a manufacturer or graphic arts producer. A
7 purchaser shall not be entitled to any Manufacturer's Purchase
8 Credit for a purchase that is required to be reported and is
9 not timely reported as provided in this Section. A purchaser
10 remains liable for (i) any tax that was satisfied by use of a
11 Manufacturer's Purchase Credit, as of the date of purchase, if
12 that use is not timely reported as required in this Section and
13 (ii) for any applicable penalties and interest for failing to
14 pay the tax when due.

15 (Source: P.A. 96-116, eff. 7-31-09.)

16 Section 99. Effective date. This Act takes effect upon
17 becoming law."